HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G.V. SEETHAPATHY

Writ Appeal No.160 of 2007

Between:

Smt. G. Yashoda Devi

... Appellant

And

The District Collector, Ranga Reddy District,
Hyderabad and 56 others

... Respondents

::JUDGMENT::

Counsel for the appellant : Shri J.V. Suryanarayana,
Senior Advocate, assisted by
Shri T. Sudhakar Reddy

Counsel for respondent No.9 : Shri K. Rama Krishna Reddy,
Senior Advocate, assisted by
Shri K. Mahender Reddy

Counsel for respondent Nos.1 to 5 : Government Pleaders for
Revenue and Land
Acquisition

Counsel for respondent Nos. 6 to 8: Shri Vilas V. Afzul Purkar

Counsel for respondent No.9 : Shri B. Mahender Reddy

Counsel for respondent Nos.
18 to 32 : Shri A. Ravinder Reddy

Counsel for respondent Nos. : Shri N. Mukunda Reddy
15,17,34 and 35

Counsel for respondent No.14 : Shri C. Sudesh Anand

Counsel for respondent Nos. : Shri S. Chakrapani

36,41,43,52 and 55
Counsel for respondent Nos. : Shri S. Ravi
42, 53 and 54

February 15, 2007

Per G.S. Singhvi, CJ

In this appeal filed under Clause 15 of the Letters Patent, Smt. G. Yashoda Devi, who was non-petitioner No.14 in Writ Petition No.22310 of 2003 filed by respondent Nos.6 to 8, has virtually stepped into their shoes and prayed for setting aside order dated 16.11.2006 passed by the learned Single Judge, whereby he dismissed the writ petition.

Respondent No.6 claims to be the legal representative of Shri Molugu Malla Reddy and respondent Nos. 7 and 8 claim to be the legal representatives of late M. Narasimha Reddy. They jointly filed Writ Petition No.22310 of 2003 with the following substantive prayer:

> " It is therefore prayed that this Honorable Court may be pleased to issue a Writ, Order or Direction in the nature of Mandamus or otherwise declaring that the G.O.Ms.No.375 dated 07.09.2002 (Annexure-XIII) inures to the benefit of the petitioners and respondents 6 to 48 and all of them are together entitled to reconveyance and all benefits there under relating to Sy.Nos.220 admeasuring Ac.11.03 guntas and S.No.221 admeasuring Ac.8.31 guntas of Kapra Village, Keesara Mandal, R.R. District and consequently direct the respondents 1 to 5 to make appropriate entries in the Revenue Records accordingly."

Although in view of dismissal of half a dozen similar petitions filed by various branches of the family whose property was acquired by the State Government in November 1966 for establishing Nuclear

Fuel Complex at Hyderabad, the learned Single Judge ought to have dismissed the writ petition at the threshold, he did so after examining the matter afresh. The learned Single Judge held that in exercise of power under Article 226 of the Constitution of India, this Court cannot decide the dispute relating to the title of the property and Section 48 of the Land Acquisition Act, 1894 (for short 'the 1894 Act') was not available to the writ petitioners for seeking release of the land acquired in 1966. Some of the observations made by the learned Single Judge are as follows:

> " The only issue that falls determination by this Court is whether the State while exercising power under Sec.48 of the Acquisition Act has power, authority or jurisdiction to reconvey/redeliver property (of the extent of Ac.19.34 guntas in Sy.Nos.220 and 221 of Kapra Village) to Sri M. Ram Reddy or his legal heirs exclusively or even to determine the destination of the lands withdrawn from the acquisition proceedings.
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> In the considered view of this Court, this Court has no jurisdiction to declare the competing claims to title, under the garb of interpreting the order in G.O.Ms.No.375. It is not practical within the spectrum of the normal procedure under Article 226 of the Constitution nor is it pragmatic given the existing litigative burden of cases pending under Article 226 before this Court, to determine disputed claims to title. All such claims are more appropriately addressed before the Civil Court of competent jurisdiction or any other forum having the right to adjudicate upon and to determine disputed questions of title. There appears no warrant for invoking or exercising the extraordinary jurisdiction of this Court which is normatively meant to address grievances in the public law area.
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> Whether G.O.Ms.No.375 in terms or on the authority of the State under Sec.48(1) purports to or has conveyed or redelivered the land to Sri M. Rami Reddy or his legal heirs as apprehended and asserted by the

petitioners? In the considered view of this Court the answer to this issue is in the negative.

The acquisition of the land by the State and in favour of the N.F.C. in 1966 commenced with a proposal by the State by a notification u/Sec.4(1)of the Acquisition Act. Processes under the Act, including the declaration u/Sec.6, the award enquiry, the award, the payment or deposit of compensation into the civil Court and the receipt of the compensation by the claimants to it, took place. However, for reasons of its own including those recorded in G.O.Ms.No.375, the State wanted to divest itself of this land.

Such divestiture by the State, of the land which is vested in it pursuant to the completed acquisition proceedings could have been pursued in several ways. The acquired land could have been put to use for any other public purpose; the land could have been sold, leased or otherwise alienated to any other persons including some of the petitioners before it; or as was done in G.O.Ms.No.375 the State could have exercised power u/sec.48(1) of the Acquisition Act and withdrawn from the acquisition proceedings.

The power of the State to deal rationally with its property, in exercise of its executive power under the Constitution is not in serious contest. However, the State did not choose to deal with this land de jure belonging to it though de facto not in its possession as it appears, in exercise of the available executive power under Article162 of the Constitution. Instead it chose to withdraw from the acquisition in specific exercise of the power available under Sec.48(1). Once the State invokes the available power u/Sec.48(1) and withdraws from the acquisition, it is axiomatic that the State walks out of the acquisition ab initio and the possession, entitlement or relationship with the State to the land in question is restored to the position as existed prior to the notification u/Sec.4(1). This legal position is the inexorable result of exercise of the power u/Sec.48(1). There are provisions in Sec.48(2) which enable the

State to deal with and cater to the consequences resulting from the initial notification (under Sec.4) up to the decision to withdraw (under Sec.48) from the acquisition; i.e., provision for compensating any loss or damage suffered by the owner of the property in consequence of the acquisition proceedings. This aspect is not germane to this lis.

Sec. 48(1) of the Acquisition Act confers an independent power on the State. This power is not referable to any other provisions of this Act. Under Sec.48, it is clear that completion of the acquisition as notified is not compulsory and it is left to the discretion of the State to withdraw from the acquisition of any land of which possession has not been taken. The expression "any land" includes a portion of the land acquired. The only condition to the exercise of the power by the State u/Sec.48(1) is that possession has not been taken. Once the power is validly exercised and specifically u/Sec.48(1), by a formal expression of the power, as is apparent from the order in G.O.Ms.No.375, the State withdraws from the acquisition. There is nothing in the provisions of the Acquisition Act either in Sec.48 or elsewhere which confers any power, authority or jurisdiction in the State to determine the destination or the title of the land (of which the State has divested itself), by exercising the power under Sec.48(1).

The administrative construction of facts by the respondents 1 to 4 or the administrative conclusion, of whether one or more persons were the "original pattadars", "pattadars" or "in possession" is just what it is an administrative statement of facts; and of no legal consequence per se. Whether it is a relevant evidence on a fact in issue, whether it is a sufficiently probative evidence to fertilize and legitimize a conclusion one way or the other, are matters more appropriately considered by the appropriate adjudicatory forum, considering the question.

This Court is not determining the disputed claims

of title of the property (of Ac.19.34 gts, in Sy.No.220 and 221 of Kapra village)and is not required to pronounce whether the factual assumptions by respondents 1 to 4, recorded during the course of the administrative processing culminating in issuance of G.O.Ms.No.375, constitute binding conclusions on the existence or otherwise of the title to this extent of land. This court is not called upon nor would determine whether the assumptions by the State and its executive actors, as to the existence of a certain set of facts, or interpretation as to the purport or meaning of certain documents – revenue or otherwise, constitute primarily or secondary evidence or even evidence at all. These are also areas more appropriately addressed to the appropriate adjudicatory forum, for determination. Suffice it to record that G.O.Ms.No.375 is but a simplicitor exercise of Governmental power u/Sec.48(1) of the Acquisition Act and only constitutes withdrawal by the State from the acquisition put into motion in 1966 (for acquisition of land for NFC)."

Shri J.V. Suryanarayana, learned Senior Counsel appearing for the appellant made some efforts to persuade us to entertain the appeal by contending that some of the issues raised in the writ petition filed by respondent Nos. 6 to 8 have not been considered and decided in the earlier litigation. We have considered the submission of the learned counsel, but have not felt impressed. A careful scrutiny of the record reveals the following facts:

1) vide notification dated 01.12.1996 issued under Section 4(1) of the 1894 Act, the State Government acquired Ac.479.00 of land in Kapra Village, Keesara Mandal, Ranga Reddy District for establishing Nuclear Fuel Complex. This included Ac.74.00 of land belonging to a family consisting of

four branches i.e. 1) Shri Ranga Reddy, 2) Shri Papi Reddy, 3) Shri Venkat Reddy and 4) Shri Yella Reddy;

2) The possession of the acquired land was taken over by the State Government on 04.01.1967;

3) Award was passed by the Land Acquisition Collector on 29.09.1969;

4) Reference applications filed by the land owners were disposed of in 1974 and the compensation was enhanced;

5) Shri Ram Reddy, S/o Papi Reddy re-entered the acquired land measuring Ac.19.34 guntas comprised in Survey Nos. 220 and 221 and started cultivating the same by paying revenue. The factum of his possession was proved in O.S.No.58 of 2001 and O.S.No.1789 of 2005;

6) In 2001, legal heirs of Shri Rami Reddy filed O.S.No.58 of 2001 in the Court of Principal District Judge, Ranga Reddy District for restraining the State Government and its functionaries from interfering with their possession. During pendency of that suit, the State Government issued G.O.Ms.No.375 dated 07.09.2002 for recovery of the land price from Shri Rami Reddy and withdrew the land in his possession from acquisition by exercising power under Section 48 of the 1894 Act;

7) On 26.09.2003, Shri M. Uma Reddy and others represented to the Government for redelivery of possession of the land specified in G.O.Ms.No.375.

They also filed Writ Petition No.22310 of 2003 claiming benefit of G.O.Ms.No.375;

8) On 15.09.2004, the State Government rejected the representations made by the writ petitioners and other joint family members on the premise that they do not have any locus over the land which was subject matter of G.O.Ms.No.375;

9) Shri Bhaskar Reddy filed Writ Petition No.24641 of 2005 for quashing the decision of the Government and for issue of a mandamus for correction of the revenue entries in G.O.Ms.No.375. The same was dismissed by the learned Single Judge on 21.11.2005;

10) Writ appeal No.2335 of 2005 filed against the aforementioned order of the leaned Single Judge was dismissed by the Division Bench on 29.11.2005;

11) Writ Petition No.17191 of 2006 filed in the name of public interest litigation questioning G.O.Ms.No.375 was dismissed by the Division Bench on 23.08.2006 with costs of Rs.25,000/-. S.L.P.No.18556 of 2006 filed against the order of the Division Bench was dismissed by the Supreme Court;

12) The members of the joint family made further representations for extending the benefit of G.O.Ms.No.375 by making suitable amendment in the revenue entries. The same was rejected by the Government vide communication dated

05.09.2006. Writ Petition No.18864 of 2006 filed by Shri Basanth Reddy for quashing the decision of the Government was dismissed by the learned Single Judge on 13.09.2006. Writ Appeal No.954 of 2006 filed by Shri Basanth Reddy was dismissed by the Division Bench on 18.09.2006. S.L.P.No.20002 of 2006 filed against the order of the Division Bench was dismissed by the Supreme Court on 11.12.2006;

13) The particulars of other litigations instituted by one or the other member of the joint family are as under:

1) Writ petition No.22265 of 2006 – M. Amarender Reddy and another v. State of Andhra Pradesh dismissed by the Single Bench on 17.10.2006.

2) Writ Petition No. 22310 of 2003 – M. Uma Reddy and others v. State Of Andrha Pradesh dismissed by Single Bench on 16.11.2006.

3) Writ Petition No.8404 of 2005 – M. Uma Reddy and others v. State of Andhra Pradesh dismissed by the Single Bench on 11.12.2006.

4) Writ Petition No.25091 of 2006 – Smt. Saraswathi v. State of Andhra Pradesh and others was dismissed by the Single Bench on 01.12.2006.

5) Writ Appeal No.1325 of 2006 filed by her was dismissed by the Division Bench on 20.12.2006.

6) Writ Petition No.357 of 2007 – C. Rama Devi v. State of Andhra Pradesh was dismissed by the

Single Bench on 03.01.2007
and Writ Appeal No.65 of 2007
filed by her was dismissed
by the Division Bench
on 22.01.2007.

In our opinion, successive dismissal of the writ petitions, writ appeals and special leave petitions filed by different members of the joint family claiming similar relief is sufficient to negate the claim of the appellant.

We are further of the view that the learned Single Judge rightly declined to issue mandamus to the official respondents to exercise power under Section 48 of the 1894 Act for release of the land which was acquired in 1966 and of which possession was taken in 1967 for the purpose of establishing Nuclear Fuel Complex. This Court cannot, after a gap of 40 years, direct the Government to restore the land to the owners who, as mentioned above, received enhanced compensation as early as in 1974.

For the reason mentioned above, the appeal is dismissed.

As a sequel to dismissal of the appeal, W.A.M.P.No.272 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

February 15, 2007
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